

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the subject application.

In the Non-Final Office Action dated October 15, 2003, the Examiner accepted the drawings as informal and acceptable for examination purposes; rejected claims 1-2, 4, 8-13, and 18-20 under 35 U.S.C. § 102(a) as being anticipated by Koppert (PTO-892 Ref U of Paper No. 5); rejected claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Koppert in view of Valent (PTO-892 Ref W of Paper No. 5); and rejected claims 5-7 and 14-16 under 35 U.S.C. § 103(a) as being anticipated by Koppert in view of DoYour (PTO-892 Ref X of Paper No. 5). Applicants respectfully traverse the rejections and reconsideration is hereby requested.

Preliminarily, it is noted that Box 1 of the Office Action Summary attached to the outstanding Office Action, indicates that the outstanding Office Action is responsive to communications filed on September 29, 2003. Applicants respectfully submit, however, that the preceding Reply Under 37 CFR § 1.111 was filed on September 22, 2003.

The rejection of claims 1-2, 4, 8-13, and 18-20 under 35 U.S.C. § 102(a) as being anticipated by Koppert is traversed and reconsideration is respectfully requested.

In rejecting claim 1, the Examiner asserts Koppert teaches "...inputting into a computer... [t]he identity of a pest existing on a property (Koppert: at least page 2 and page 14); [t]he identity of a plant... existing on the property ... (Koppert: at least page 2 and page 14); and [e]xecuting an algorithm for generating therefrom instructions for choosing a pesticide to protect said plant or crop from said pest (Koppert: at least page 2 and page 14)." The Examiner further cites page 2 of Koppert as teaching "... use of natural enemies requires due attention. Success

depends on several factors such as crop... and the crop protection agents used. These must be combined into an appropriate system for each particular crop in various situations; where ultimately a recommended protocol is established.”

Preliminarily, Applicants respectfully submit page 14 of Koppert is, apparently, an archived web page that was last updated on March 20, 2001. The present invention, however, was filed on September 15, 2000. Accordingly, Applicants respectfully submit that page 14 of Koppert is not available as prior art under 35 U.S.C. § 102(a).

Secondly, Applicants respectfully submit that a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single reference. See M.P.E.P. § 2131.

Accordingly, Applicants respectfully submit that claim 1 is allowable over Koppert in that claim 1 recites a combination of elements including, for example, “...inputting into a computer... the identity of a pest existing on a property; [inputting into a computer] ...the identity of a plant or crop existing on the property... ; and executing an algorithm for generating therefrom instructions for choosing a pesticide to protect said plant or crop from said pest.” Koppert fails to teach, either expressly or inherently, at least these features of the claimed invention. Thus, Applicants respectfully submit that claims 2, 4, and 8-12, which depend from claim 1, are also allowable over the cited references.

Further, Applicants respectfully submit that, even though Koppert states that the successful use of “natural enemies” depends upon the crops and the crop protection agents used and that the crops and crop protection agents used “must be combined into an appropriate system for each particular crop in various situations, where ultimately a recommended protocol is

established”, Koppert remains silent as to any teaching of executing an algorithm for generating instructions for choosing a pesticide to protect an inputted plant or crop from an inputted pest.

Firstly, and for example, Applicants respectfully submit that the “natural enemies” of Koppert are not “pesticides” as required by the presently claimed invention.

Secondly, and for example, it is noted that page 3 as cited by Koppert describes a “Crop Index”, allowing a user to “click on the crop of their choice to find out what the best possibilities are with regard to biological control.” Accordingly, and contrary to Examiner’s assertion, Koppert does not teach, for example, execution of an algorithm, wherein the algorithm generates instructions for choosing a pesticide to protect the inputted plant from the inputted pest, as required by the presently claimed invention.

In the “Response to Arguments” section of the outstanding Office Action, the Examiner states that “in the instant application, the information inputted into the computer (the identity of a pest and identity of a crop) is not linked to the information used in executing the algorithm. There is not a linking limitation connected to these separate steps” and that “[t]he intention of the aforementioned statement ...was to show that the information inputted into the computer relating to the pest and the crop is not shown to be relevant to the algorithm for generating therefrom instructions for choosing a pesticide to protect said plant or crop from said pest. This algorithm could have been performed via information inputted by the host computer (vs. the user). There is no limitation connecting the use of the information inputted by the user to be used in calculating the algorithm.”

Regardless of the presence or absence of a “limitation connecting the use of the information inputted by the user to be used in calculating the algorithm,” Applicants respectfully submit that clicking on, and selecting, a crop within the “Crop Index” of Koppert to allow a user

to “find out what the best possibilities are with regard to biological control,” is not consistent with “executing an algorithm for generating instructions for choosing a pesticide to protect [an inputted] plant from [an inputted] pest,” as required by the presently claimed invention. Applicants respectfully submit an algorithm that “find[s] out what the best possibilities are with regard to biological control” does not anticipate an algorithm that “generat[es] instructions for choosing a pesticide to protect [an inputted] plant from [an inputted] pest.”

In rejecting claim 13, the Examiner states “[c]laim 13 is rejected under the same rationale as set forth above in claim 1.”

However, and as set forth above with respect to the rejection of claim 1, a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single reference..

Accordingly, Applicants respectfully submit claim 13 is allowable over Koppert in that claim 13 recites a combination of element including, for example, “a memory for storing ...a plant database[,] ... a pest database[,] ... and a pesticide database; and ... a processor connected to the memory and being configured to generate instructions regarding which pesticides in the pesticide database can be used to protect a plant in the plant database from a pest in the pest database.” Koppert fails to teach, either expressly or inherently, at least these features of the claimed invention. Accordingly, Applicants respectfully submit that claims 18-20, which depend from claim 13, are also allowable over the cited references.

Further, Applicants respectfully submit, that, even though Koppert states that the successful use of “natural enemies” depends upon the crops and the crop protection agents used, Koppert remains silent as to any teaching of a processor configured to generate instructions

Application No.: 09/662,492
Group Art Unit: 3625
Final Office Action dated October 15, 2003
Reply to Final Office Action dated December 5, 2003

Docket No.: 6945.002.00

regarding which pesticides in a pesticide database can be used to protect a plant in a plant database from a pest in a pest database.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-2, 4, 8-13, and 18-20 under 35 U.S.C. § 102(a) as being anticipated by Koppert.

The rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Koppert in view of Valent is traversed and reconsideration is respectfully requested.

Claim 3 includes all of the elements of claim 1, as discussed above, and Koppert fails to teach or suggest at least the features of independent claim 1 as recited above. Similarly, Valent fails to cure the deficiencies of Koppert. Accordingly, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness regarding claim 3 in view of claim 1, as above.

The rejection of claims 5-7 and 14-16 under 35 U.S.C. § 103(a) as being anticipated by Koppert in view of DoYour is traversed and reconsideration is respectfully requested.

Claims 5-7 include all of the elements of claim 1, as discussed above, and Koppert fails to teach or suggest at least the features of independent claim 1 as recited above. Similarly, DoYour fails to cure the deficiencies of Koppert. Accordingly, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness regarding claims 5-7 in view of claim 1, as above.

Claims 14-16 include all of the elements of claim 13, as discussed above, and Koppert fails to teach or suggest at least the features of independent claim 13 as recited above. Similarly, DoYour fails to cure the deficiencies of Koppert. Accordingly, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness regarding claims 14-16 in view of claim 13, as above.

In the "Response to Arguments" section of the outstanding Office Action, the Examiner states "referring to claims 3, 5-7 and 14-16, the Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references."

Applicants respectfully submit, however, that Applicants arguments made above with respect to claims 3, 5-7, and 14-16 specifically point out how the language of the claims patentably distinguishes them from the references. For example, claims 3 and 5-7 depend from claim 1 while claims 14-16 depend from claim 13. As such, claims 3 and 5-7 include all of the elements of claim 1 and claims 14-16 include all of the elements of claim 13. Since, as illustrated above with respect to the rejections of claims 1 and 13, Koppert fails to anticipate claims 1 and 13 (i.e., describe, either implicitly or inherently, each and every claimed element), Koppert must inherently fail to anticipate at least those same elements, as they are implicitly and variously set forth, in claims 3, 5-7, and 14-16. Similarly, the variously applied secondary references of Valent and DoYour fail to teach or suggest at least the aforementioned elements of claims 1 and 13 that Koppert fails to anticipate. Accordingly, Applicants respectfully submit that the arguments presented both in the instant Request for Reconsideration as well as within the Reply Under 37 CFR § 1.111, filed on September 22, 2003, do amount to a general allegation of patentability because they do specifically point out how the language in the claims distinguishes them from the references.

If the Examiner deems that a telephone call would further the prosecution of this application, the Examiner is invited to call the undersigned at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

Application No.: 09/662,492

Docket No.: 6945.002.00

Group Art Unit: 3625

Final Office Action dated October 15, 2003


Reply to Final Office Action dated December 5, 2003

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this paper is provided.

Dated: December 5, 2003

Respectfully submitted,

By


Kurt M. Eaton

Registration No.: 51,640
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorneys for Applicants